

**CALENDAR ITEM
C05**

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04/20/17
PRC 7910.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Laura Rosch Gillette and Thomas Lee Rosch

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3340 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning August 23, 2016.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

CALENDAR ITEM NO. **C05** (CONT'D)

authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

4. Lessee shall not store any personal items or construct any improvements within the Public Trust easement which may impair the public uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On August 24, 2006, the Commission authorized a 10-year Recreational Pier Lease to John Thomas Rosch and Carolyn Jane Rosch, as Trustees of the Irrevocable Trust Agreement The John Thomas Rosch Qualified Personal Residence Trust and The Carolyn Jane Rosch Qualified Personal Residence Trust, Dated September 12, 1998 ([Calendar Item C09, August 24, 2006](#)). That lease expired on August 22, 2016. On November 25, 2014, the upland was deeded to Laura Rosch Gillette and Thomas Lee Rosch. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys.

The mooring buoys are used for recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The buoys have existed for many years at this location. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The mooring buoys do not substantially interfere with the Public Trust needs at this time and at this location.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

CALENDAR ITEM NO. **C05** (CONT'D)

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of the lease for two mooring buoys is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically

CALENDAR ITEM NO. **C05** (CONT'D)

exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Laura Rosch Gillette and Thomas Lee Rosch beginning August 23, 2016, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$754 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7910.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 33, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865 County of Placer, State of California, and more particularly described as follows:

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to those parcels described in Exhibit "A" of that Grant Deed recorded November 25, 2014 in Document 2014-0084793 of Official Records of said County.

Accompanying plat is hereby made part of this description

END OF DESCRIPTION

Prepared June 3, 2016 by the California State Lands Commission Boundary Unit.





APN 093-094-039

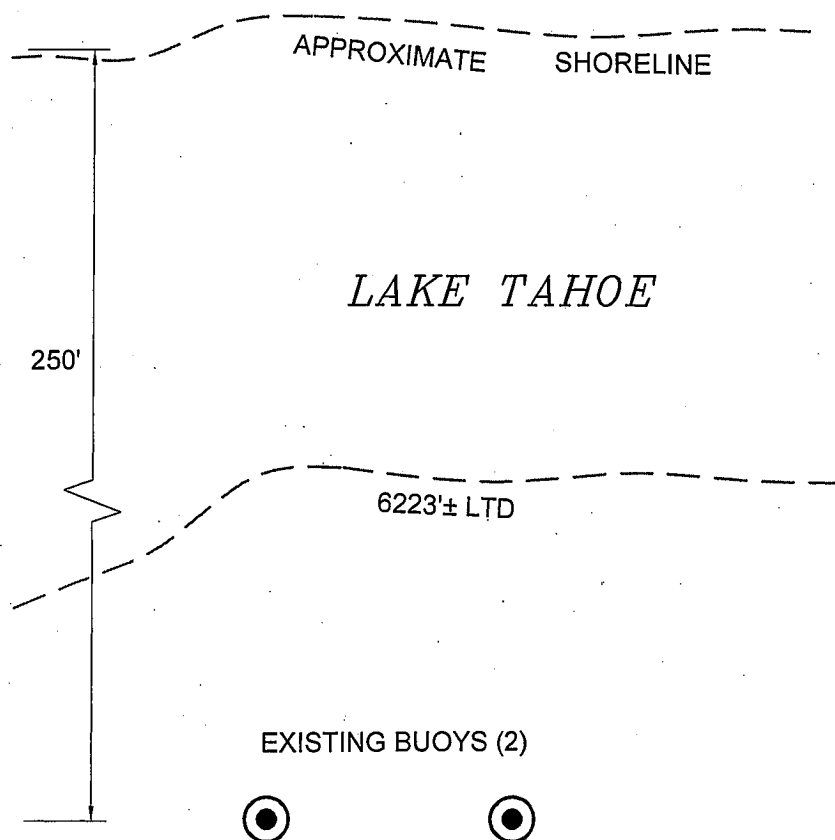


EXHIBIT A

Page 2 of 2

MJJ 06/02/2016

LAND DESCRIPTION PLAT
PRC 7910.1, GILLETTE & ROSCH
PLACER COUNTY

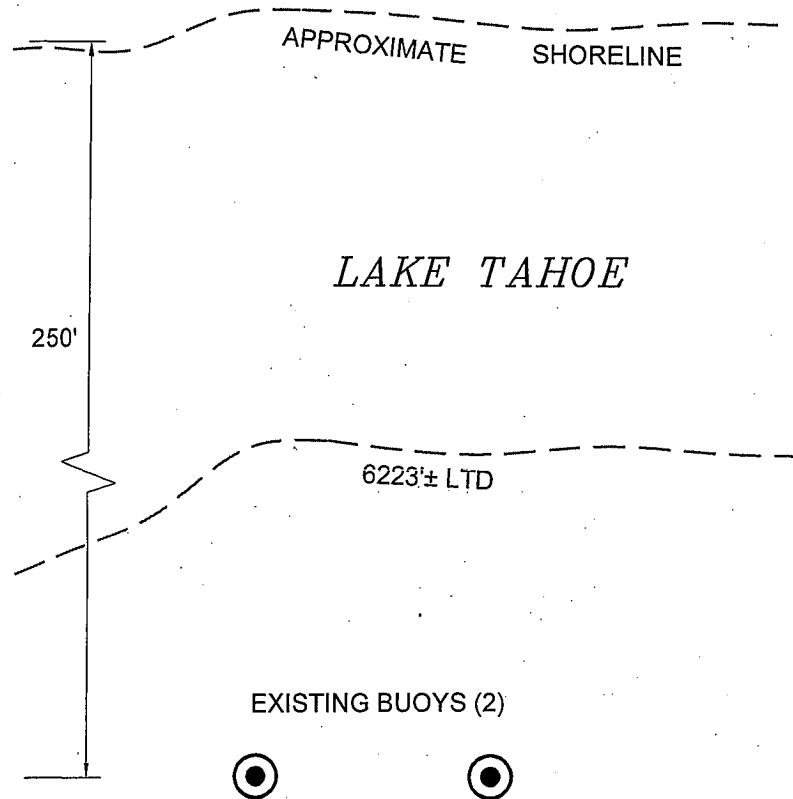
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

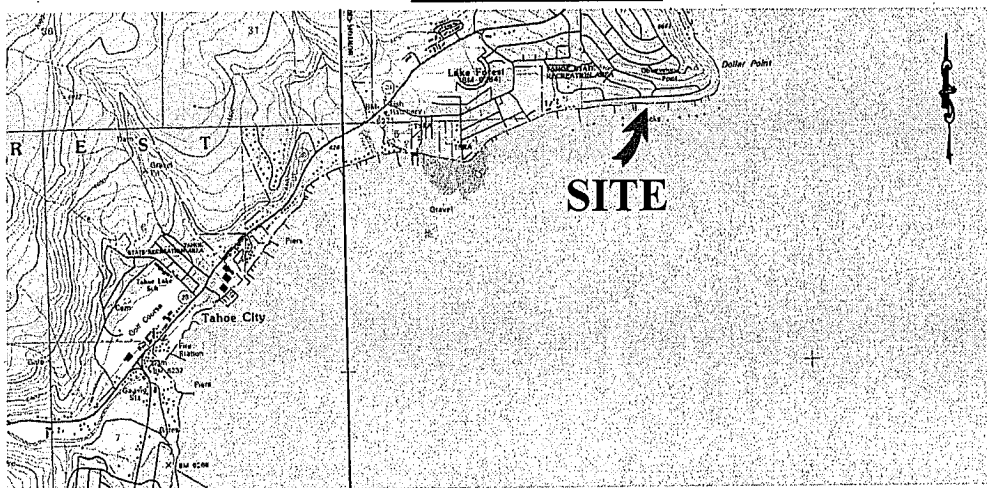
APN 093-094-039



3340 EDGEWATER DRIVE, NEAR TAHOE CITY

NO SCALE

LOCATION

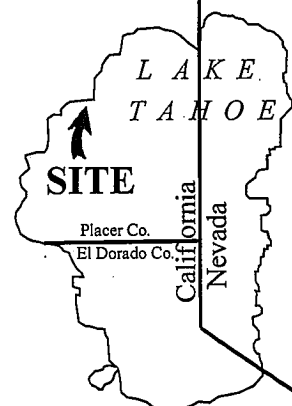


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 7910.1
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APN 093-094-039
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MIJ 06/02/2016